

REMARKS

Claims 1-20 are currently pending in the subject application. Claims 5-14 and 16 are withdrawn from consideration. Claims 1, 3 and 17 are independent.

A. Asserted Anticipation Rejection of Claims 1-4, 15 and 17-20

In the outstanding Office Action Made Final, claims 1-4, 15 and 17-20 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2003/0198184 to Huang et al. ("the Huang et al. reference"). This rejection is respectfully traversed for at least the reasons set forth below.

All of the independent claims essentially recite, in part, calculating the multimedia data generation rate based on transmission buffer state information and multimedia data loss rate. In the outstanding Office action, the BYTE_{BUFFERED} of the Huang et al. reference was equated with the transmission buffer state information.¹ This characterization is traversed for at least the reasons set forth below.

The BYTE_{BUFFERED} of the Huang et al. reference is *estimated* based on the difference between the number of bytes sent from the server and that received by the client.² Thus, the BYTE_{BUFFERED} of the Huang et al. reference is not transmission buffer state information, as recited in the independent claims, but an estimation thereof based on the state of the network, i.e., information from the transport protocol.

In particular, a network buffer disclosed in the Huang et al. reference is the wire line/wireless network *itself*. Thus, the state of transmission of network is not directly examined, but rather is indirectly estimated using the difference between the cumulative number of bytes sent from a server and that received by a client. In contrast, as recited in the independent claims, the transmission buffer state information is of a buffer through which the multimedia data is transmitted, i.e., is located *within* the server or terminal, and through which the exact state of transmission can be directly examined.

Further, while estimation of the BYTE_{BUFFERED} of the Huang et al. reference may include subtracting a packet loss compensation value from an initial estimate, this is not the

¹ Office Action Made Final, dated November 21, 2007, page 3, lines 11-13.

² See, e.g., the Huang et al. reference, step 500 in FIG. 2, all of FIG. 3, and paragraph [0022].

same as calculating the multimedia data generation rate based on the multimedia data loss rate,³ as recited in the independent claims. In particular, an increase in the packet loss compensation value in the Huang et al. reference will lead to an indication that the network buffer has plenty of capacity, i.e., $BYTE_{BUFFERED} < BYTE_{TARGET}$, and an increase in the data generation rate.⁴ In contrast, in accordance with embodiments and as recited in the independent claims, the multimedia data generation rate is based on the transmission buffer state information **and** the multimedia data loss rate. As noted, for example, in paragraph [0042] of the original specification, this allows the multimedia data generation rate to be lowered when a large amount of data builds up in the transmission buffer **or** the multimedia data loss rate is high.

Therefore, it is respectfully submitted that the Huang et al. reference fails to disclose or suggest independent claims 1, 3, and 17. The remaining claims depend, either directly or indirectly, from respective ones of these independent claims, and are similarly believed to be allowable for at least the reasons set forth above. Therefore, it is respectfully requested that this rejection be withdrawn.

B. Conclusion

The above remarks demonstrate the failings of the Examiner's arguments with respect to the outstanding rejection, and are sufficient to overcome them. However, these remarks are not intended to, nor need they, comprehensively address each and every reason for the patentability of the claimed subject matter over the applied prior art. Accordingly, applicants *do not* contend that the claims are patentable solely on the basis of the particular claim elements discussed above.

In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

³ Office Action Made Final, dated November 21, 2007, page 3, lines 14-15.

⁴ See, e.g., the Huang et al. reference, FIGS. 3 and 4, and paragraph [0023].

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

Respectfully submitted,

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Date: January 22, 2008⁵



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PETITION and
DEPOSIT ACCOUNT CHARGE AUTHORIZATION

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying-papers may also be charged to Deposit Account No. 50-1645.

⁵ Tuesday after a Federal Holiday.